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FILED
JAN 17 2017
SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

DMR

MARK ANDREWS;

Plaintiff,

vs.

CALIFORNIA DEPARTMENT OF
CONSUMERS AFFAIRS;
SONOMA COUNTY DEPARTMENT
OF CHILD SUPPORT SERVICES;
CALIFORNIA DEPARTMENT OF
MOTOR VEHICLES;
CALIFORNIA BUREAU OF
AUTOMOTIVE REPAIR;
DOES 1 through 20;

Defendant.

) CASE NO: **CV 17 0252**
)
) COMPLAINT FOR DECLARATORY
) JUDGMENT; FED.R.CIV.P. 8(a); and
) (57). TITLE 42 §1983; TITLE 42
) §1988

) DEMAND FOR TRIAL BY JURY

COMPLAINT

This is a federal question and complaint for declaratory adjudication brought
against State Agencies for violations of due process of the 5th and 14th
Amendments of the Constitution violating Plaintiff's Civil Rights Title 42 §1983.

I. PARTIES

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2 1. Plaintiff, MARK ANDREWS, is a resident of the City of Santa Rosa,
3 County of Sonoma, State of California.
4

5 2. Defendant, CALIFORNIA DEPARTMENT OF CONSUMERS
6 AFFAIRS, (hereinafter DCA) are Agencies conducting their affairs within the
7 State of California.
8

9 3. Defendant, SONOMA COUNTY DEPARTMENT OF CHILD
10 SUPPORT SERVICES, (hereinafter DCSS) are Agencies conducting their affairs
11 within the State of California.
12

13 4. Defendant, CALIFORNIA DEPARTMENT OF MOTOR
14 VEHICLES, (hereinafter "DMV") are Agencies conducting their affairs within the
15 State of California.
16

17 5. Defendant, CALIFORNIA BUREAU OF AUTOMOTIVE REPAIR,
18 (hereinafter "BAR") are Agencies conducting their affairs within the State of
19 California.
20
21

II. JURISDICTION

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24 6. This is an action for declaratory judgment pursuant to 28 U.S.C.A. §
25 2201, for the purpose of determining a question of actual controversy between the
26 parties as more fully appears in this complaint.
27
28

1 7. Jurisdiction of this action is based on Title 28, United States Code, §
2 1331(a) and federal question jurisdiction.

3 8. Jurisdiction of this action is further based on Title 42, United State
4 Code, §1983.
5

6 7 III. STATEMENT OF FACTS 8

9 9. Plaintiff, Mark Andrews, is a citizen of the United States who thus
10 enjoys all the protection of State, Federal, and Constitutional Law. Plaintiff seeks,
11 in this complaint, to exercise certain aspects and elements of the laws of which he
12 is entitled.
13

14 10. Plaintiff will allege hereinafter a violation of his constitutional due
15 process rights, specifically but not exclusively his right to a fair hearing to
16 determine the extent of his personal property rights to possess and enjoy his
17 licensing privileges of the "BAR" and the "DMV" for his California driver's
18 license. Each of these Licenses are his property as covered and defined by the 5th
19 and the 14th Amendment.
20
21

22 11. Furthermore, due process requires that before one is disciplined by
23 deprivation or abridgement of the right to engage in his business or profession, he be
24 given reasonable notice of the charges against him, notice of the time and place of
25 a hearing and thereafter a fair hearing on the charges.
26
27
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1 12. With both interim license suspensions and temporary restraining
2 orders, an accusation must be filed on a date no further in the future than 30 days
3 to ensure that the licensee is given all of the due process protections associated
4 with administrative adjudications. (Bus. & Prof.Code, §125.7, subd. (d);
5 Gov.Code, §11529, subd. (f); see generally Gov.Code, §11500 et seq). If an
6 accusation is filed, a licensee is entitled to a hearing within 30 days and a decision
7 within 15 days after the matter is submitted.
8
9

10 13. In the present case Plaintiff was deprived of his opportunity for a fair
11 hearing.
12

13 14. Plaintiff receives notice from BAR dated May 19, 2013 stating license
14 would be suspended effective June 23, 2013 pursuant to FC §17520 and DCSS
15 order.
16

17 15. Plaintiff receives notice from DMV dated June 14, 2013 stating
18 license would be suspended effective July 14, 2013 pursuant to FC §17520 and
19 DCSS order.
20

21 16. Plaintiff sends letter of appeal on June 26, 2013 to Sonoma County
22 DCSS office requesting an administrative hearing consistent with federal law and
23 due process because Plaintiff holds a vested property right to both licenses
24 ARD266612 (BAR) and A5419295 (DMV).
25
26
27
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1 17. DCSS holds multiple hearings to find Plaintiff in contempt of the
2 court order. DCSS refuses to file appeal with the Office of Administrative
3 Hearings. No appeal hearing is held violating Plaintiffs property and due process
4 rights.
5

6 18. On September 18, 2013 Plaintiff asks Commissioner Louise Bayles
7 Fightmaster to return licenses. She incorrectly states that Plaintiff is not entitled to
8 a hearing under the child support laws. She then states on the record that no one
9 had received notice of any request for a hearing.
10

11 19. Attorney Kirk Gorman for DCSS refused to inform the court that
12 DCSS was in possession of appeal request letter dated June 26, 2013.
13
14 Commissioner Louise Bayles Fightmaster then takes an oral motion for a hearing
15 that was never held.
16

17 20. FC §17520(6)(h) and FC §17520(6)(h)(2) set out the rules for an
18 appeal hearing after request is made.
19

20 21. Six more months go by with multiple hearings where Kirk Gorman
21 tells Plaintiff and his attorney “if you want a hearing on the license suspension, file
22 a motion”.
23

24 22. On February 19, 2014 finally after 8 months had passed, with
25 Plaintiffs licenses suspended, DCSS attorney tells Plaintiff either pay full child
26 support arrearage or stipulate to plea guilty to 3 counts of contempt, pay \$500 now
27
28

1 and pay \$125.00 per month and he will stay the jail time if monies are paid. DCSS
2 attorney Kirk Gorman still refused to give Plaintiff a hearing on license suspension
3 before the Office of Administrative Hearings.
4

5 23. Attorney for Plaintiff C. Wallace Coppock told Plaintiff to get
6 licenses back on February 19, 2014 to plead guilty now in stipulation and we could
7 argue this issue of due process and the fraud upon the court committed by
8 Commissioner Louise Bayles Fightmaster and Attorney Kirk Gorman. There
9 Plaintiff stipulated under duress to get his licenses back. All to his legal and
10 economic damage.
11
12

13 24. DCSS even after stipulation did not release licenses for another 2
14 weeks until March 3, 2014 thus the Plaintiff was a victim of fraud upon the court
15 and his constitutional rights to his property and due process of law.
16
17

18 25. Commissioner Louise Bayles Fightmaster knew or should have
19 known of FC §17520 and FC §17800 and by not returning the licenses on
20 September 18, 2013 violated Plaintiffs property and due process rights. Thus
21 committing a fraud upon the court.
22

23 26. This is an action for violation of Civil Rights pursuant to 42 USC
24 §1983. The Department of Child Support Services violated Plaintiff s
25 constitutional rights by refusing to even hold an appeals hearing to which Plaintiff
26
27
28

1 was entitled to by law before taking Plaintiffs BAR license ADR266612 and DMV
2 license A5419295 thus rendered Plaintiff unable to earn a living.

3
4 27. Pursuant to 42 United States Code §1988 the DCSS should be held
5 liable for Plaintiff. Attorney's fees and all costs in addition to all other damages
6 awarded by the Court.

7
8 THEREFORE, plaintiff demands that
9

10 28. The court enter a declaratory judgment that Plaintiff was
11
12 unconstitutionally denied his due process rights to a fair hearing before the
13 Defendants suspended and revoked his property rights to a license to conduct
14 business by the "BAR" and a license to drive a Motor Vehicle within California by
15 the "DMV".
16

17 29. For damages in the sum of \$100,000,000.00 for violating Plaintiffs
18
19 civil rights and due process protections.

20 30. For Attorney's fees.

21 31. For costs of suit and fees subject to proof.

22 32. The court grants such other and federal relief as may be proper.

23
24 Dated: January 16, 2017

25 Respectfully submitted,

26
27 
28 Mark T. Andrews
Plaintiff Pro Se